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SENATE BILL 195

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Dede Feldman

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO WATER; PROVIDING FOR A STATE WATER PLAN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 72, Article 14 NMSA 1978 is enacted to read:

"[NEW MATERIAL] STATE WATER PLAN-- CONTENTS-- WATER STAKEHOLDERS' COMMITTEE. --

A. The interstate stream commission shall develop a comprehensive, coordinated state water plan that shall:

(1) make specific provisions for public notice, review and comment;

(2) assess historic and prevailing surface and ground water uses in the state, including the cumulative impacts of different water uses;

(3) include an inventory of the quantity and

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1 quality of the state's water resources, population projections
2 and other water resource demands under a range of conditions;

3 (4) include water budgets for the state and
4 for all major river basins and aquifer systems in the state and
5 discuss their relationship to regional water plans;

6 (5) identify and discuss water resource
7 management and policy issues of state-level concern;

8 (6) identify and reflect the common
9 priorities, goals and objectives that will positively impact
10 the public welfare of the state;

11 (7) include a review of current water
12 conservation measures and consider water conservation first
13 among feasible water supply alternatives in the management of
14 water to meet current and future water demands;

15 (8) recognize and respect the water rights of
16 Indian nations, tribes or pueblos and include consideration of
17 them as appropriate;

18 (9) recognize and encourage the connections
19 between water availability and land use decisions;

20 (10) include a drought management plan that
21 coordinates drought planning throughout the state;

22 (11) determine the manner in which water
23 requirements for the projected demands might be met with
24 management and conservation of water supplies available to the
25 state;

1 (12) incorporate regional water plans into the
2 state water plan as they are completed on a regular basis; and

3 (13) provide strategies for water management,
4 methods for resolving conflicts between regional water plans
5 and between those plans and the state water plan, solutions to
6 water availability problems and for adoption of a plan for
7 implementation.

8 B. The state water plan shall promote:

9 (1) managing water in order to promote
10 stewardship of the state's water resources;

11 (2) protecting and maintaining land and water
12 property rights and their priority status;

13 (3) protecting the customs, culture,
14 environment and economic stability of the state's diverse
15 communities;

16 (4) protecting both the water supply and water
17 quality;

18 (5) extending available supplies through
19 conservation and efficient use;

20 (6) cooperative strategies, based on sharing
21 and concern for meeting the basic needs of all New Mexicans;

22 (7) continuity of policy and direction as well
23 as the ability to adapt to changes in the state's water
24 situation; and

25 (8) a strong process for public participation.

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1 C. The interstate stream commission shall convene a
2 committee of regional water planners and other stakeholders to
3 develop state water plan requirements and criteria as
4 appropriate, including a table of contents for the state water
5 plan and a plan for public participation throughout the
6 planning process.

7 D. The interstate stream commission shall annually
8 submit to the legislature and to the governor a list of
9 recommendations for legislation and funding that are necessary
10 to achieve the goals of and implement the state water plan.

11 E. The state water plan shall be updated every five
12 years.

13 F. Nothing in the state water plan shall be
14 construed to permit the granting or the condemnation of water
15 rights.

16 G. Nothing in the state water plan shall be
17 construed to determine, abridge or affect the water rights of
18 Indian nations, tribes or pueblos. "

19 Section 2. Section 72-4A-2 NMSA 1978 (being Laws 2001,
20 Chapter 164, Section 2) is amended to read:

21 "72-4A-2. FINDINGS AND PURPOSE. --

22 A. The legislature finds that:

23 (1) New Mexico is in a desert where water is a
24 scarce resource;

25 (2) the economy depends on reasonable and fair

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1 allocation of water for all purposes;

2 (3) the public welfare depends on efficient
3 use and conservation of water;

4 (4) New Mexico must comply with its delivery
5 obligations under interstate compacts; and

6 (5) public confidence and support for water
7 use efficiency and conservation is based on a reasonable
8 balance of investments in water infrastructure and management.

9 B. The purpose of the Water Project Finance Act is
10 to provide for water use efficiency, resource conservation and
11 protection and fair distribution and allocation of the scarce
12 resource to all users consistent with approved regional water
13 plans or the state water plan. "

14 Section 3. Section 72-4A-5 NMSA 1978 (being Laws 2001,
15 Chapter 164, Section 5) is amended to read:

16 "72-4A-5. BOARD--DUTIES.--The board shall:

17 A. adopt rules governing terms and conditions of
18 grants or loans recommended by the board for appropriation by
19 the legislature from the water project fund, giving priority to
20 projects that have urgent needs, that have been identified for
21 implementation of a completed regional water plan that is
22 accepted by the interstate stream commission or that are
23 contained in the state water plan and that have matching
24 contributions from federal or local funding sources; and

25 B. authorize qualifying water projects to the

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1 authority that are for:

2 (1) storage, conveyance or delivery of water
3 to end users;

4 (2) implementation of federal Endangered
5 Species Act of 1973 collaborative programs;

6 (3) restoration and management of watersheds;
7 or

8 (4) flood prevention. "

9 Section 4. Section 72-14-44 NMSA 1978 (being Laws 1987,
10 Chapter 182, Section 2) is amended to read:

11 "72-14-44. INTERSTATE STREAM COMMISSION--GROUNDWATER
12 APPROPRIATION--WATER RIGHTS PURCHASE--WATER PLANNING FUNDING.--

13 A. The interstate stream commission is authorized
14 to appropriate groundwater or purchase water rights on behalf
15 of any of the various regions of the state.

16 B. Nothing in this section shall be construed as
17 permitting the condemnation of water rights or as determining,
18 abridging or affecting in any way the water rights of Indian
19 nations, tribes or pueblos.

20 C. The interstate stream commission is authorized
21 to make grants or loans of funds for the purpose of regional
22 water planning. Prior to approval of any proposal by a region
23 for planning funds under this section, the commission shall
24 develop criteria for evaluating such proposals. These criteria
25 at a minimum shall provide for:

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1 (1) identification of the region requesting
2 planning funds and why it is hydrologically and politically an
3 appropriate applicant;

4 (2) use of an appropriate planning process,
5 including opportunities for participation by those Indian
6 nations, tribes or pueblos located within the various regions
7 of the state;

8 (3) reasonable proposed costs and timetables
9 for completion of the planning process;

10 (4) appropriate provisions for notice, review
11 and comment where applicable;

12 (5) adequate review of potential conflict with
13 laws relating to impact on existing water rights;

14 (6) adequate review of water conservation and
15 the effect on the public welfare; and

16 (7) identification of sources other than the
17 interstate stream commission for funding of the proposed
18 regional planning process.

19 D. A water planning region eligible for funding
20 under this section is an area within the state that contains
21 sufficient hydrological and political interests in common to
22 make water planning feasible. The state as a whole shall not
23 be considered a water planning region for purposes of this
24 section.

25 E. No entity shall be made a part of a proposal for

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1 planning funds under this section without its consent.

2 F. No funds shall be granted under this ~~[act]~~
3 section to any party ~~[or parties]~~ that ~~[are]~~ is not within a
4 water planning region. Whether a proposal for funding falls
5 within a water planning region shall be determined on a case-
6 by-case basis by the interstate stream commission after
7 consultation with the state engineer and consideration of the
8 following:

9 (1) whether the source of water and the
10 potential place of use of the water are located within the same
11 hydrologic basin; and

12 (2) if there is more than one party and the
13 parties are requesting funds on a joint basis, whether the
14 parties have demonstrated political and economic interests in
15 common by entering into a binding intergovernmental agreement
16 for carrying out the planning process.

17 G. Regional water plans shall be updated every five
18 years, contingent on adequate appropriations to accomplish such
19 updates. As these plans and updates are completed and accepted
20 by the interstate stream commission, they shall be incorporated
21 into the state water plan."